COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

REQUEST FOR CONFIDENTIAL TREATMENT OF)
INFORMATION FILED WITH SOUTH CENTRAL)
BELL TELEPHONE COMPANY'S PROPOSED) CASE NO. 95-024
CONTRACT WITH PAPA JOHN'S INTERNATIONAL)

O R D E R

This matter arising upon petition of BellSouth Telecommunications, Inc., d/b/a South Central Bell Telephone Company ("South Central Bell"), filed January 18, 1995, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the cost support data developed in connection with South Central Bell's special service arrangement contract with Papa John's International, Inc. ("Papa John's")[1] on the grounds that disclosure of the information is likely to cause South Central Bell competitive injury, and it appearing to this Commission as follows:

South Central Bell has contracted with Papa John's to provide an untariffed service known as Frame Relay Service. This service allows the transmission of data between two of a customer's locations over predefined logical data circuits. In support of its

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[1] The petition requests protection of cost information provided in support of a contract with Cincinnati Bell Long Distance. However, it is apparent from the prayer in the petition, as well as the contract and the cover letter from South Central Bell, that the reference to Cincinnati Bell Long Distance is a typographical error and that the information sought to be protected is submitted in connection with the contract with Papa John's International, Inc.

application, South Central Bell has provided cost information which it seeks to protect as confidential.

The information sought to be protected is not known outside South Central Bell and is not disseminated within South Central Bell except to those employees who have a legitimate business need to know and act upon the information. South Central Bell seeks to preserve and protect the confidentiality of the information through all appropriate means, including the maintenance of appropriate security at its offices.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are provided in KRS 61.878(1). That section of the statute exempts 11 categories of information. One category exempted in subparagraph (c) of that section is commercial information confidentially disclosed to the Commission. To qualify for that exemption, it must be established that disclosure of the information is likely to cause substantial competitive harm to the party from whom the information was obtained. To satisfy this test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

Frame Relay Service is a packet data offering which competes with similar services offered by providers of competitive private line networks. These include providers of microwave service,

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digital radio and fiber networks. Disclosure of the information would allow such competitors to determine South Central Bell's cost and contribution from the service which they could use in marketing their competing services to the detriment of South Central Bell. Therefore, disclosure of the information is likely to cause South Central Bell competitive injury and the information should be protected as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that the cost support data developed by South Central Bell in connection with a special service arrangement contract with Papa John's, which South Central Bell has petitioned to be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

Done at Frankfort, Kentucky, this 24th day of February, 1995.

PUBLIC SERVICE COMMISSION

Chairman

Vice Chairman

Commissioner

ATTEST:

Executive Director